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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,170	08/28/2001	Ken Dumble	12128-153001	4649

26161 7590 05/20/2004

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225 FRANKLIN ST  
BOSTON, MA 02110

EXAMINER
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TRAN, DZUNG D

ART UNIT	PAPER NUMBER
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2633

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/941,170

Applicant(s)

DUMBLE ET AL.

Examiner

Dzung D Tran

Art Unit

2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Specification***

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kikuchi et al. US patent no. 6,532,320.

Regarding claims 1 and 7, Kikuchi discloses a communication system (figure 1) comprising:

an optical transmission network having an input end (141-1, col. 6, line 36) and an output end (141-2, col. 6, line 37);

a wavelength division multiplexer (147, col. 6, lines 35, 42-43) coupled to said input end of said optical transmission network, said wavelength division multiplexer being configured to receive the information signals (i. e. data packets directly from each internet-traffic source in a plurality of internet-traffic sources and to modulate, in response to said data packets, see line 65 of col. 8 to line 13 of col. 9 and col. 12, lines 46-61), a corresponding plurality of optical beams, each of said optical beams having a selected wavelength ( $\lambda_1$  to  $\lambda_8$ ) ; and a wavelength division demultiplexer (148, col. 6,

line 36) coupled to said output end of said optical transmission network, said wavelength division demultiplexer (148) being configured to select a particular optical beam from said plurality of optical beams and to retrieve data packets therefrom.

Regarding claims 2 and 8, Kikuchi further discloses a plurality of transponders (100, 120-1, 120-2) (e.g. wavelength translators) at the transmitting site, each of said transponders (100, 120-1, 120-2) being directly connected to an internet-traffic source from said first plurality of internet-traffic sources and configured to modulate an optical beam in response to data packets received from said internet-traffic source (figure 1, col.6, lines 30-60), said optical beam having a selected wavelength ( $\lambda_1$  to  $\lambda_8$ );

an optical coupler (145, col. 6, line 55) in communication with each of said wavelength translators and coupled to said input end of said optical transmission network.

Regarding claims 3 and 9, Kikuchi further discloses communication system further comprises: a plurality of wavelength translators (110, 130-1, 130-2), (e.g. wavelength translators) at the receiving site, each of said wavelength translators (110, 130-1, 130-2), being directly connected to an internet-traffic destination selected from a plurality of internet-traffic destinations and being configured to provide data packets received from said demultiplexer (148) to said internet-traffic destination (col. 6, line 61 to col. 7, line 6).

Regarding claims 4, 5, 10 and 11, Kikuchi further discloses the information communication devices (140-1, 150-1, 150-2 at the transmitting site and 140-2, 150-3 150-4 at the receiving site) may comprise device such as SONET terminal device

coupled to said input end of said optical transmission network (col. 8, lines 41-66, col. 12, lines 46-61).

Regarding claims 6 and 12, Kikuchi further discloses a data transmission at rates of OC-192 (i. e. 10 Gbit/s) or greater (col.8, line 62, col. Col. 10, lines 3-6).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Purse et al. U.S. publication no. 2002/0071148. Optical communication network and nodes for forming such a network

b. Fee U.S. patent no. 5,777,761. System and method for photonic facility and line protection switching using wavelength translation

c. Takehana et al. U.S. patent no. 6,081,359. Transmitting apparatus and receiving apparatus for WDM signal transmission

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung Tran whose telephone number is (703) 305-0932.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Jason Chan, can be reached on (703) 305-4729.


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The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Dzung Tran

05/14/2004



JASON CHAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600